

AN ACT

relating to consideration under the public school accountability system of performance on assessment instruments by certain students formerly receiving special education services and to the placement and use of video cameras in certain self-contained classrooms or other settings providing special education services.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF TEXAS:

SECTION 1. Section 29.022, Education Code, is amended by amending Subsections (a), (b), (c), (d), (e), (i), and (j) and adding Subsections (a-1), (a-2), (a-3), (c-1), (e-1), (i-1), (l), (m), (n), (o), (p), (q), (r), (s), (t), and (u) to read as follows:

(a) In order to promote student safety, on receipt of a written request authorized under Subsection (a-1) [~~by a parent, trustee, or staff member~~], a school district or open-enrollment charter school shall provide equipment, including a video camera, to the [each] school or schools in the district or the [each] charter school campus or campuses specified in the request [~~in which a student who receives special education services in a self-contained classroom or other special education setting is enrolled~~]. A [Each] school or campus that receives equipment as provided by this subsection shall place, operate, and maintain one or more video cameras in [~~each~~] self-contained classrooms and [classroom or] other special education settings [~~setting~~] in which a majority of the students in regular attendance are[+]

1           ~~[(1)]~~ provided special education and related  
2 services~~[+]~~ and are

3           ~~[(2)]~~ assigned to one or more ~~[a]~~ self-contained  
4 classrooms ~~[classroom]~~ or other special education settings  
5 ~~[setting]~~ for at least 50 percent of the instructional day,  
6 provided that:

7           (1) a school or campus that receives equipment as a  
8 result of the request by a parent or staff member is required to  
9 place equipment only in classrooms or settings in which the  
10 parent's child is in regular attendance or to which the staff member  
11 is assigned, as applicable; and

12           (2) a school or campus that receives equipment as a  
13 result of the request by a board of trustees, governing body,  
14 principal, or assistant principal is required to place equipment  
15 only in classrooms or settings identified by the requestor, if the  
16 requestor limits the request to specific classrooms or settings  
17 subject to this subsection.

18           (a-1) For purposes of Subsection (a):

19           (1) a parent of a child who receives special education  
20 services in one or more self-contained classrooms or other special  
21 education settings may request in writing that equipment be  
22 provided to the school or campus at which the child receives those  
23 services;

24           (2) a board of trustees or governing body may request  
25 in writing that equipment be provided to one or more specified  
26 schools or campuses at which one or more children receive special  
27 education services in self-contained classrooms or other special

1 education settings;

2 (3) the principal or assistant principal of a school  
3 or campus at which one or more children receive special education  
4 services in self-contained classrooms or other special education  
5 settings may request in writing that equipment be provided to the  
6 principal's or assistant principal's school or campus; and

7 (4) a staff member assigned to work with one or more  
8 children receiving special education services in self-contained  
9 classrooms or other special education settings may request in  
10 writing that equipment be provided to the school or campus at which  
11 the staff member works.

12 (a-2) Each school district or open-enrollment charter  
13 school shall designate an administrator at the primary  
14 administrative office of the district or school with responsibility  
15 for coordinating the provision of equipment to schools and campuses  
16 in compliance with this section.

17 (a-3) A written request must be submitted and acted on as  
18 follows:

19 (1) a parent, staff member, or assistant principal  
20 must submit a request to the principal or the principal's designee  
21 of the school or campus addressed in the request, and the principal  
22 or designee must provide a copy of the request to the administrator  
23 designated under Subsection (a-2);

24 (2) a principal must submit a request by the principal  
25 to the administrator designated under Subsection (a-2); and

26 (3) a board of trustees or governing body must submit a  
27 request to the administrator designated under Subsection (a-2), and

1 the administrator must provide a copy of the request to the  
2 principal or the principal's designee of the school or campus  
3 addressed in the request.

4 (b) A school or campus that places a video camera in a  
5 classroom or other special education setting in accordance with  
6 Subsection (a) shall operate and maintain the video camera in the  
7 classroom or setting, as long as the classroom or setting continues  
8 to satisfy the requirements under Subsection (a), for the remainder  
9 of the school year in which the school or campus received the  
10 request, unless the requestor withdraws the request in writing. If  
11 for any reason a school or campus will discontinue operation of a  
12 video camera during a school year, not later than the fifth school  
13 day before the date the operation of the video camera will be  
14 discontinued, the school or campus must notify the parents of each  
15 student in regular attendance in the classroom or setting that  
16 operation of the video camera will not continue unless requested by  
17 a person eligible to make a request under Subsection (a-1). Not  
18 later than the 10th school day before the end of each school year,  
19 the school or campus must notify the parents of each student in  
20 regular attendance in the classroom or setting that operation of  
21 the video camera will not continue during the following school year  
22 unless a person eligible to make a request for the next school year  
23 under Subsection (a-1) submits a new request.

24 (c) Except as provided by Subsection (c-1), video [~~Video~~]  
25 cameras placed under this section must be capable of:

26 (1) covering all areas of the classroom or other  
27 special education setting, including a room attached to the

1 classroom or setting used for time-out [~~except that the inside of a~~  
2 ~~bathroom or any area in the classroom or setting in which a~~  
3 ~~student's clothes are changed may not be visually monitored~~]; and

4 (2) recording audio from all areas of the classroom or  
5 other special education setting, including a room attached to the  
6 classroom or setting used for time-out.

7 (c-1) The inside of a bathroom or any area in the classroom  
8 or other special education setting in which a student's clothes are  
9 changed may not be visually monitored, except for incidental  
10 coverage of a minor portion of a bathroom or changing area because  
11 of the layout of the classroom or setting.

12 (d) Before a school or campus activates [~~places~~] a video  
13 camera in a classroom or other special education setting under this  
14 section, the school or campus shall provide written notice of the  
15 placement to all school or campus staff and to the parents of each  
16 [a] student attending class or engaging in school activities  
17 [receiving special education services] in the classroom or setting.

18 (e) Except as provided by Subsection (e-1), a [A] school  
19 district or open-enrollment charter school shall retain video  
20 recorded from a video camera placed under this section for at least  
21 three [six] months after the date the video was recorded.

22 (e-1) If a person described by Subsection (i) requests to  
23 view a video recording from a video camera placed under this  
24 section, a school district or open-enrollment charter school must  
25 retain the recording from the date of receipt of the request until  
26 the person has viewed the recording and a determination has been  
27 made as to whether the recording documents an alleged incident. If

1 the recording documents an alleged incident, the district or school  
2 shall retain the recording until the alleged incident has been  
3 resolved, including the exhaustion of all appeals.

4 (i) A video recording of a student made according to this  
5 section is confidential and may not be released or viewed except as  
6 provided by this subsection or Subsection (i-1) or (j). A school  
7 district or open-enrollment charter school shall release a  
8 recording for viewing by:

9 (1) an [~~a school district~~] employee [~~or a parent or~~  
10 ~~guardian of a student~~] who is involved in an alleged incident that  
11 is documented by the recording and [~~for which a complaint~~] has been  
12 reported to the district or school, on request of the employee [~~r~~  
13 ~~parent, or guardian, respectively~~];

14 (2) a parent of a student who is involved in an alleged  
15 incident that is documented by the recording and has been reported  
16 to the district or school, on request of the parent;

17 (3) appropriate Department of Family and Protective  
18 Services personnel as part of an investigation under Section  
19 261.406, Family Code;

20 (4) [~~(3)~~] a peace officer, a school nurse, a district  
21 or school administrator trained in de-escalation and restraint  
22 techniques as provided by commissioner rule, or a human resources  
23 staff member designated by the board of trustees of the school  
24 district or the governing body of the open-enrollment charter  
25 school in response to a report of an alleged incident [~~complaint~~] or  
26 an investigation of district or school personnel or a report  
27 [~~complaint~~] of alleged abuse committed by a student; or

1           (5) [~~(4)~~] appropriate agency or State Board for  
2 Educator Certification personnel or agents as part of an  
3 investigation.

4           (i-1) A contractor or employee performing job duties  
5 relating to the installation, operation, or maintenance of video  
6 equipment or the retention of video recordings who incidentally  
7 views a video recording is not in violation of Subsection (i).

8           (j) If a person described by Subsection (i)(4) [~~(i)(3)~~] or  
9 (5) [~~(4)~~] who views the video recording believes that the recording  
10 documents a possible violation under Subchapter E, Chapter 261,  
11 Family Code, the person shall notify the Department of Family and  
12 Protective Services for investigation in accordance with Section  
13 261.406, Family Code. If any person described by Subsection (i)(3)  
14 [~~(i)(2)~~], [~~(3), or~~] (4), or (5) who views the recording believes  
15 that the recording documents a possible violation of district or  
16 school policy, the person may allow access to the recording to  
17 appropriate legal and human resources personnel. A recording  
18 believed to document a possible violation of district or school  
19 policy relating to the neglect or abuse of a student may be used as  
20 part of a disciplinary action against district or school personnel  
21 and shall be released at the request of the student's parent [~~or~~  
22 ~~guardian~~] in a legal proceeding. This subsection does not limit the  
23 access of a student's parent to a record regarding the student under  
24 the Family Educational Rights and Privacy Act of 1974 (20 U.S.C.  
25 Section 1232g) or other law.

26           (l) A school district or open-enrollment charter school  
27 policy relating to the placement, operation, or maintenance of

1 video cameras under this section must:

2 (1) include information on how a person may appeal an  
3 action by the district or school that the person believes to be in  
4 violation of this section or a policy adopted in accordance with  
5 this section, including the appeals process under Section 7.057;

6 (2) require that the district or school provide a  
7 response to a request made under this section not later than the  
8 seventh school business day after receipt of the request by the  
9 person to whom it must be submitted under Subsection (a-3) that  
10 authorizes the request or states the reason for denying the  
11 request;

12 (3) except as provided by Subdivision (5), require  
13 that a school or a campus begin operation of a video camera in  
14 compliance with this section not later than the 45th school  
15 business day, or the first school day after the 45th school business  
16 day if that day is not a school day, after the request is authorized  
17 unless the agency grants an extension of time;

18 (4) permit the parent of a student whose admission,  
19 review, and dismissal committee has determined that the student's  
20 placement for the following school year will be in a classroom or  
21 other special education setting in which a video camera may be  
22 placed under this section to make a request for the video camera by  
23 the later of:

24 (A) the date on which the current school year  
25 ends; or

26 (B) the 10th school business day after the date  
27 of the placement determination by the admission, review, and

1 dismissal committee; and

2 (5) if a request is made by a parent in compliance with  
3 Subdivision (4), unless the agency grants an extension of time,  
4 require that a school or campus begin operation of a video camera in  
5 compliance with this section not later than the later of:

6 (A) the 10th school day of the fall semester; or

7 (B) the 45th school business day, or the first  
8 school day after the 45th school business day if that day is not a  
9 school day, after the date the request is made.

10 (m) A school district, parent, staff member, or  
11 administrator may request an expedited review by the agency of the  
12 district's:

13 (1) denial of a request made under this section;

14 (2) request for an extension of time to begin  
15 operation of a video camera under Subsection (1)(3) or (5); or

16 (3) determination to not release a video recording to  
17 a person described by Subsection (i).

18 (n) If a school district, parent, staff member, or  
19 administrator requests an expedited review under Subsection (m),  
20 the agency shall notify all other interested parties of the  
21 request.

22 (o) If an expedited review has been requested under  
23 Subsection (m), the agency shall issue a preliminary judgment as to  
24 whether the district is likely to prevail on the issue under a full  
25 review by the agency. If the agency determines that the district is  
26 not likely to prevail, the district must fully comply with this  
27 section notwithstanding an appeal of the agency's decision. The

1 agency shall notify the requestor and the district, if the district  
2 is not the requestor, of the agency's determination.

3 (p) The commissioner:

4 (1) shall adopt rules relating to the expedited review  
5 process under Subsections (m), (n), and (o), including standards  
6 for making a determination under Subsection (o); and

7 (2) may adopt rules relating to an expedited review  
8 process under Subsections (m), (n), and (o) for an open-enrollment  
9 charter school.

10 (q) The agency shall collect data relating to requests made  
11 under this section and actions taken by a school district or  
12 open-enrollment charter school in response to a request, including  
13 the number of requests made, authorized, and denied.

14 (r) A video recording under this section is a governmental  
15 record only for purposes of Section 37.10, Penal Code.

16 (s) This section applies to the placement, operation, and  
17 maintenance of a video camera in a self-contained classroom or  
18 other special education setting during the regular school year and  
19 extended school year services.

20 (t) A video camera placed under this section is not required  
21 to be in operation for the time during which students are not  
22 present in the classroom or other special education setting.

23 (u) In this section:

24 (1) "Parent" includes a guardian or other person  
25 standing in parental relation to a student.

26 (2) "School business day" means a day that campus or  
27 school district administrative offices are open.

1           (3) "Self-contained classroom" does not include a  
2 classroom that is a resource room instructional arrangement under  
3 Section 42.151.

4           (4) "Staff member" means a teacher, related service  
5 provider, paraprofessional, counselor, or educational aide  
6 assigned to work in a self-contained classroom or other special  
7 education setting.

8           (5) "Time-out" has the meaning assigned by Section  
9 37.0021.

10           SECTION 2. Section 39.053, Education Code, is amended by  
11 amending Subsection (c) and adding Subsection (g-3) to read as  
12 follows:

13           (c) School districts and campuses must be evaluated based on  
14 five domains of indicators of achievement adopted under this  
15 section that include:

16           (1) in the first domain, the results of:

17                   (A) assessment instruments required under  
18 Sections 39.023(a), (c), and (l), including the results of  
19 assessment instruments required for graduation retaken by a  
20 student, aggregated across grade levels by subject area, including:

21                           (i) for the performance standard determined  
22 by the commissioner under Section 39.0241(a), the percentage of  
23 students who performed satisfactorily on the assessment  
24 instruments, aggregated across grade levels by subject area; and

25                           (ii) for the college readiness performance  
26 standard as determined under Section 39.0241, the percentage of  
27 students who performed satisfactorily on the assessment

1 instruments, aggregated across grade levels by subject area; and

2 (B) assessment instruments required under  
3 Section 39.023(b), aggregated across grade levels by subject area,  
4 including the percentage of students who performed satisfactorily  
5 on the assessment instruments, as determined by the performance  
6 standard adopted by the agency, aggregated across grade levels by  
7 subject area;

8 (2) in the second domain:

9 (A) for assessment instruments under Subdivision  
10 (1)(A):

11 (i) for the performance standard determined  
12 by the commissioner under Section 39.0241(a), the percentage of  
13 students who met the standard for annual improvement on the  
14 assessment instruments, as determined by the commissioner by rule  
15 or by the method for measuring annual improvement under Section  
16 39.034, aggregated across grade levels by subject area; and

17 (ii) for the college readiness performance  
18 standard as determined under Section 39.0241, the percentage of  
19 students who met the standard for annual improvement on the  
20 assessment instruments, as determined by the commissioner by rule  
21 or by the method for measuring annual improvement under Section  
22 39.034, aggregated across grade levels by subject area; and

23 (B) for assessment instruments under Subdivision  
24 (1)(B), the percentage of students who met the standard for annual  
25 improvement on the assessment instruments, as determined by the  
26 commissioner by rule or by the method for measuring annual  
27 improvement under Section 39.034, aggregated across grade levels by

1 subject area;

2 (3) in the third domain, the student academic  
3 achievement differentials among students from different racial and  
4 ethnic groups and socioeconomic backgrounds;

5 (4) in the fourth domain:

6 (A) for evaluating the performance of high school  
7 campuses and districts that include high school campuses:

8 (i) dropout rates, including dropout rates  
9 and district completion rates for grade levels 9 through 12,  
10 computed in accordance with standards and definitions adopted by  
11 the National Center for Education Statistics of the United States  
12 Department of Education;

13 (ii) high school graduation rates, computed  
14 in accordance with standards and definitions adopted in compliance  
15 with the Every Student Succeeds Act [~~No Child Left Behind Act of~~  
16 ~~2001~~] (20 U.S.C. Section 6301 et seq.);

17 (iii) the percentage of students who  
18 successfully completed the curriculum requirements for the  
19 distinguished level of achievement under the foundation high school  
20 program;

21 (iv) the percentage of students who  
22 successfully completed the curriculum requirements for an  
23 endorsement under Section 28.025(c-1);

24 (v) the percentage of students who  
25 completed a coherent sequence of career and technical courses;

26 (vi) the percentage of students who satisfy  
27 the Texas Success Initiative (TSI) college readiness benchmarks

1 prescribed by the Texas Higher Education Coordinating Board under  
2 Section 51.3062(f) on an assessment instrument in reading, writing,  
3 or mathematics designated by the Texas Higher Education  
4 Coordinating Board under Section 51.3062(c);

5 (vii) the percentage of students who earn  
6 at least 12 hours of postsecondary credit required for the  
7 foundation high school program under Section 28.025 or to earn an  
8 endorsement under Section 28.025(c-1);

9 (viii) the percentage of students who have  
10 completed an advanced placement course;

11 (ix) the percentage of students who enlist  
12 in the armed forces of the United States; and

13 (x) the percentage of students who earn an  
14 industry certification;

15 (B) for evaluating the performance of middle and  
16 junior high school and elementary school campuses and districts  
17 that include those campuses:

18 (i) student attendance; ~~and~~

19 (ii) for middle and junior high school  
20 campuses:

21 (a) dropout rates, computed in the  
22 manner described by Paragraph (A)(i); and

23 (b) the percentage of students in  
24 grades seven and eight who receive instruction in preparing for  
25 high school, college, and a career that includes information  
26 regarding the creation of a high school personal graduation plan  
27 under Section 28.02121, the distinguished level of achievement

1 described by Section 28.025(b-15), each endorsement described by  
2 Section 28.025(c-1), college readiness standards, and potential  
3 career choices and the education needed to enter those careers; and  
4 (iii) the percentage of students formerly  
5 receiving special education services who achieved satisfactory  
6 academic performance for those students, as determined by  
7 commissioner rule, on assessment instruments administered under  
8 Section 39.023 in grades three through eight; and

9 (C) any additional indicators of student  
10 achievement not associated with performance on standardized  
11 assessment instruments determined appropriate for consideration by  
12 the commissioner in consultation with educators, parents, business  
13 and industry representatives, and employers; and

14 (5) in the fifth domain, three programs or specific  
15 categories of performance related to community and student  
16 engagement locally selected and evaluated as provided by Section  
17 39.0546.

18 (g-3) For purposes of Subsection (c)(4)(B)(iii), a student  
19 formerly receiving special education services means a student whose  
20 enrollment information:

21 (1) for the preceding year, as reported through the  
22 Public Education Information Management System (PEIMS), indicates  
23 the student was enrolled at the campus and was participating in a  
24 special education program; and

25 (2) for the current year, as reported through the  
26 Public Education Information Management System (PEIMS) and as  
27 reported on assessment instruments administered to the student

1 under Section 39.023, indicates the student is enrolled at the  
2 campus and is not participating in a special education program.

3 SECTION 3. Section 39.202, Education Code, is amended to  
4 read as follows:

5 Sec. 39.202. ACADEMIC DISTINCTION DESIGNATION FOR  
6 DISTRICTS AND CAMPUSES. (a) The commissioner by rule shall  
7 establish an academic distinction designation for districts and  
8 campuses for outstanding performance in attainment of  
9 postsecondary readiness. The commissioner shall adopt criteria  
10 for the designation under this section, including:

11 (1) percentages of students who:

12 (A) performed satisfactorily, as determined  
13 under the college readiness performance standard under Section  
14 39.0241, on assessment instruments required under Section  
15 39.023(a), (b), (c), or (l), aggregated across grade levels by  
16 subject area; or

17 (B) met the standard for annual improvement, as  
18 determined by the agency under Section 39.034, on assessment  
19 instruments required under Section 39.023(a), (b), (c), or (l),  
20 aggregated across grade levels by subject area, for students who  
21 did not perform satisfactorily as described by Paragraph (A);

22 (2) percentages of:

23 (A) students who earned a nationally or  
24 internationally recognized business or industry certification or  
25 license;

26 (B) students who completed a coherent sequence of  
27 career and technical courses;

1 (C) students who completed a dual credit course  
2 or an articulated postsecondary course provided for local credit;

3 (D) students who achieved applicable College  
4 Readiness Benchmarks or the equivalent on the Preliminary  
5 Scholastic Assessment Test (PSAT), the Scholastic Assessment Test  
6 (SAT), the American College Test (ACT), or the ACT-Plan assessment  
7 program; ~~and~~

8 (E) students who received a score on either an  
9 advanced placement test or an international baccalaureate  
10 examination to be awarded college credit; and

11 (F) students formerly receiving special  
12 education services who achieved satisfactory academic performance  
13 for those students, as determined by commissioner rule, on  
14 assessment instruments administered under Section 39.023 in grades  
15 three through eight; and

16 (3) other factors for determining sufficient student  
17 attainment of postsecondary readiness.

18 (b) For purposes of Subsection (a)(2)(F), a student  
19 formerly receiving special education services is a student whose  
20 enrollment information:

21 (1) for the preceding year, as reported through the  
22 Public Education Information Management System (PEIMS), indicates  
23 the student was enrolled in the district and was participating in a  
24 special education program; and

25 (2) for the current year, as reported through the  
26 Public Education Information Management System (PEIMS) and as  
27 reported on assessment instruments administered to the student

1 under Section 39.023, indicates the student is enrolled in the  
2 district and is not participating in a special education program.

3 SECTION 4. This Act applies beginning with the 2017-2018  
4 school year.

5 SECTION 5. This Act takes effect immediately if it receives  
6 a vote of two-thirds of all the members elected to each house, as  
7 provided by Section 39, Article III, Texas Constitution. If this  
8 Act does not receive the vote necessary for immediate effect, this  
9 Act takes effect September 1, 2017.

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President of the Senate

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Speaker of the House

I certify that H.B. No. 61 was passed by the House on May 2, 2017, by the following vote: Yeas 145, Nays 0, 1 present, not voting; and that the House concurred in Senate amendments to H.B. No. 61 on May 25, 2017, by the following vote: Yeas 143, Nays 0, 2 present, not voting.

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Chief Clerk of the House

I certify that H.B. No. 61 was passed by the Senate, with amendments, on May 23, 2017, by the following vote: Yeas 31, Nays 0.

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Secretary of the Senate

APPROVED: \_\_\_\_\_

Date

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Governor